EXHIBIT 4

IN THE DISTRICT OF THE UNITED STATES OF AMERICA
FOR THE SOUTHERN DISTRICT OF ILLINOIS

D.W.K., Jr. and parents Mary & Daniel Kaleta, Plaintiff(s),	Case No. **14-847-NJR-SCW**
vs.	
ABBOTT LABORATORIES, INC., Defendant(s).	

TRIAL DAY 6-a.m. session

BE IT REMEMBERED AND CERTIFIED that heretofore on **3/9/2014**, the same being one of the regular judicial days in and for the United States District Court for the Southern District of Illinois, **Honorable Nancy J. Rosenstengel**, United States District Judge, presiding, the following proceedings were recorded by mechanical stenography; transcript produced by computer.

REPORTED BY: **Molly N. Clayton, RPR, FCRR**, Official Reporter for United States District Court, SDIL, 750 Missouri Ave., East St. Louis, Illinois 62201, (618)482-9226, *molly_clayton@ilsd.uscourts.gov*

So a number of things happened on Friday, and I want to talk about those first before we get into the other things that we need to address. And I think I needed to sort out exactly what happened, and that's why I took the second motion for mistrial under advisement, and I've given it significant thought over the weekend.

So, first, as I see it, there are two issues that arose from Dr. Oakley's testimony. First is the admission of irrelevant and potentially unfairly prejudicial evidence by his mention of Thalidomide. So the question is whether this incident, in the context of the entire trial, is so serious as to warrant a mistrial.

Now, there was the first statement in direct examination, which we then went to sidebar on. And as I mentioned at first I thought a cautionary instruction at that point might only seek to highlight the word. But then after it was said again, and Mr. Williams jumped up and told the witness he shouldn't say that, I think the jury knows that the witness said something he should not have. And I think there's a need to explain that to them. And so for that reason I believe at this point a curative instruction is important. I presume that the jury will follow an instruction to disregard inadmissible evidence, just as I presume it will follow any other instructions that I give to them.

So having reviewed the official transcript over the

weekend, I do not believe that the effect of this evidence mentioned briefly on one of the first days of trial will be devastating or cause prejudice to Abbott's substantial rights. These statements do not create a real likelihood of preventing the jury from evaluating all of the evidence that has been and will be presented to them over the next several weeks fairly and accurately such that Abbott has been deprived of a fair trial. Nonetheless, I'm going to strike that portion of Dr. Oakley's testimony, and the jurors will be instructed that this evidence is not part of their fact-finding mission and that they should disregard it entirely.

Now, I have crafted a curative instruction that I will have Deana pass out. This is just my attempt at doing so, and I welcome counsels' input. So I'll let you be looking at that. But as I said, there are really two issues, and the second one is a violation of my order on the motion in limine. And this I view as much more serious than Dr. Oakley's brief mention of Thalidomide. So I went back and I read my orders and, really, Friday was the second violation of my order on the motion in limine.

The first was in voir dire, when Mr. Fibich mentioned the size of Mr. Ball's law firm, which was an agreed motion in limine, Plaintiffs Number 16, that we wouldn't refer to resources of the firms, and I really didn't think there was any dispute. It was agreed. So at this point I have serious

concerns that plaintiffs either have not read, or at least have not absorbed the content of the orders on the motions in limine. As I said, there were technically over 60-some motions in limine that I ruled on before trial, if you take plaintiffs', with all their subparts, and then Abbott I think had 22 standing alone.

So at this point I'm going to believe that that's inadvertent and not intentional. But as I said, I have grave concerns about whether plaintiffs are taking those rulings seriously. As to Friday, that was a violation of Abbott's Motion in Limine Number 14, which just technically I reserved ruling on parts of it, but I noted that the evidence is likely not relevant. And I said plaintiffs will not be allowed to introduce evidence of drugs that have been withdrawn from the market in order to argue that these drugs are in any way similar to Depakote. I think that's pretty clear. And then I also said, "For this reason, any mention of drugs that have been withdrawn from the market should be brought to the Court's attention before the evidence is offered or the testimony is elicited."

Now, when we went to sidebar before Dr. Oakley made a statement, I understood Mr. Strain's objection to be that he was objecting that Dr. Oakley was going to testify that he thought Depakote would be withdrawn because that was outside the scope of his opinion. But certainly plaintiffs' counsel

should have known that that might be where he was going, but I mean I assumed, because lawyers have an obligation to tell their witnesses what evidence has been excluded, that Dr. Oakley knew that. And the fact that plaintiffs' public health expert wasn't apparently counseled, that that evidence has been excluded, is simply unacceptable.

Mr. Fibich's argument that because Thalidomide is back on the market today makes the testimony admissible is ridiculous. It was clearly a violation of the order. And why I'm concerned that they haven't read it is because in voir dire Mr. Fibich said he didn't know that size and resources of law firms was excluded. And on Friday Mr. Williams said he didn't know that the witness was going to mention Thalidomide. So whether you think it is not intentional but it is certainly not the -- not what I would expect from counsel.

So I guess now that we are getting ready to go to Dr. Blume, Counsel, whoever wants to speak, has Dr. Blume been advised about the motions in limine?

MR. BOUNDAS: Your Honor, we have advised Dr. Blume about the motions. Specifically we spoke with her multiple times about it and wrote out a list of things that were appropriate.

THE COURT: Okay. Because now she is a labeling expert and the post-1999 labels have been excluded. Does she understand that?

and gentlemen. I hope you had a good weekend and got some rest and fresh air and enjoyed the sunshine. Everybody ready to go?

Okay. Well, before we begin today, I'm going to have a few instructions for you today, like I've done before, where I read something to you. Then we will proceed with the testimony.

Ladies and gentlemen, during his testimony, Dr. Oakley -- he was the live witness that we had here on Friday -- mentioned a drug that has been -- that was withdrawn from the market several days ago -- okay. I'm going to start over. It is Monday.

Ladies and gentlemen, during his testimony, Dr. Oakley mentioned a drug that was withdrawn from the market several decades ago. That drug has absolutely nothing to do with this case. It is not relevant to any issue that you will be asked to decide. For that reason, I have stricken that portion of Dr. Oakley's testimony from the record. It is not evidence in this case and must not be considered.

Now, I think we are going to the -- we ended Friday with a video deposition of a Michael Murray, and we have just another portion of that to play for you at this point.

(Exhibit Number 2477, corrected portion, played to the jury)

THE COURT: Okay. That's it?

MR. BALL: Yes.

THE COURT: So, ladies and gentlemen, I have now

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REPORTER'S CERTIFICATE

I, Molly N. Clayton, RPR, FCRR, Official Court Reporter for the U.S. District Court, Southern District of Illinois, do hereby certify that I reported with mechanical stenography the proceedings contained in pages 1181 - 1329; and that the same is a full, true, correct and complete transcript from the record of proceedings in the above-entitled matter.

DATED this 10th day of March, 2015.

s/Molly Clayton, RPR, FCRR